
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Jack Gerritsen)	File Number EB-03-LA-286
)	
6217 ½ Palm Ave.)	NAL/Acct. No.200532900002
Bell, California 90201)	FRN 0005240072
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: December 02, 2004

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Jack Gerritsen ("Gerritsen") apparently willfully and repeatedly violated Section 333 of the Communications Act of 1934, as amended, ("Act") by willfully and maliciously interfering with the radio communications of authorized users in the Amateur Radio Service.¹ We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Gerritsen is apparently liable for forfeiture in the amount of twenty-one thousand dollars (\$21,000).

II. BACKGROUND

2. On December 28, 1999, Jack Gerritsen was arrested by the California Highway Patrol and charged with violating sections of the California Penal Code that prohibit intercepting, obstructing and/or interfering with police radio communications.³ Gerritsen was convicted of interfering with police radio communications on June 6, 2000.⁴ Gerritsen's subsequent probation included that he not possess any radio transmitting devices and not interfere with police or FCC activity.⁵ On November 14, 2001, the Commission's Wireless Telecommunications Bureau set aside, on its own motion, amateur radio station license KG6IRO, which was granted to Gerritsen on November 7, 2001.⁶ Gerritsen was notified that the

¹47 U.S.C. § 333.

²47 U.S.C. § 503(b).

³*FCC Investigation Leads to Arrest of Suspect Interfering with Police Frequencies in the Los Angeles Area* (2000 WL 6306 (F.C.C.) Released January 7, 2000) ("FCC Press Release"). According to the FCC Press Release, "[s]everal Los Angeles area police departments and other licensees had filed complaints with the Commission concerning what was described as intentional interference on their assigned frequencies. . . . In addition to the California Penal Code violations, the Commission's Enforcement Bureau has determined that the suspect's actions were also in violation of Section 301 of the Communications Act."

⁴*See* Municipal Court of Long Beach Judicial District, County of Los Angeles, State of California, Case No. 0SE01792: People vs. Jack Gerritsen, June 6, 2000.

⁵*See* Municipal Court of Long Beach Judicial District, County of Los Angeles, State of California, Case No. 0SE01792: People vs. Jack Gerritsen, June 6, 2001.

action was taken because of complaints about the operation of Gerritsen's station and because of questions regarding his qualification to be a licensee in light of his 1999 arrest and 2000 conviction for radio interference to police communications.⁷ Gerritsen was warned that "you have no authority to operate radio transmitting equipment, and such operation would be a violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. Section 301, subjecting you to monetary penalties and imprisonment."⁸

3. On December 9, 2001, the Bell California Police Department notified the Commission's Los Angeles Office that they had received complaints against Gerritsen for interference to amateur communications. On December 28, 2001, the Acting District Director of the Los Angeles Office issued a warning letter to Gerritsen for unlicensed operation and advised him to immediately discontinue operating his unlicensed radio station.⁹ Gerritsen replied on January 2, 2002, asserting that the Commission's set-aside of his Amateur license was improper.¹⁰ On January 29, 2002, Officers from the Bell Police Department and the California Highway Patrol arrested Gerritsen for violation of his probation.¹¹ On May 7, 2002, Gerritsen was found to have violated his probation and sentenced.¹²

4. Soon after Gerritsen's release on July 28, 2003, the Commission's Los Angeles Office began receiving complaints of deliberate interference to radio communications over local Amateur, Business and Public Safety radio repeater systems.¹³ The complaints alleged that the person making the transmissions identified himself as "KG6IRO." The Los Angeles Office conducted an investigation which identified Gerritsen as the source of the on-going unlicensed operation. Based upon this evidence, an Notice of Apparent Liability for \$10,000 was issued to Gerritsen on June 15, 2004, for willful and repeated unlicensed operation of a radio station in the Amateur Radio Service in violation of Section 301 of the Act ("Section 301 NAL").¹⁴ A Forfeiture Order concerning the same violation was issued for \$10,000 on October 5, 2004.¹⁵

5. "Good engineering and good amateur practice" are prerequisites to operation in the amateur bands.¹⁶ Amateur radio operators engage in voluntary, noncommercial communications with

(...continued from previous page)

⁶See November 21, 2001, letter from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau, Federal Communications Commission, to Mr. Jack Gerritsen ("Enforcement Bureau Letter"). The action was taken pursuant to Section 1.113(a) of the Rules which states that "within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion." 47 C.F.R. § 1.113(a).

⁷Enforcement Bureau Letter.

⁸Enforcement Bureau Letter.

⁹December 28, 2001, letter from Catherine Deaton, Acting District Director, Los Angeles Office, Enforcement Bureau, Federal Communications Commission.

¹⁰January 2, 2002, letter from Jack Gerritsen to Catherine Deaton, Acting District Director, Enforcement Bureau, Federal Communications Commission.

¹¹See Bell Police Department-Supplemental/Arrest Report 01-6723, dated January 29, 2002.

¹²See The Municipal Court of Long Beach Judicial District, County of Los Angeles, State of California, Case No. 0SE01792: People vs. Jack Gerritsen, May 7, 2002.

¹³See e.g., September 19, 2003, Amateur Radio Relay League (ARRL) Complaint; November 6, 2003 Bell Gardens Police Department Sgt. Jerry Winfrey's complaint.

¹⁴47 U.S.C. § 301.

¹⁵*Jack Gerritsen*, ___ FCC Rcd ___ (2004), (DA 04-3183, released October 5, 2004).

¹⁶47 C.F.R. §97.101(a).

other amateur operators located in the United States and in foreign countries. All frequencies are shared. No frequency is assigned for the exclusive use of any amateur station. When normal communication systems have been overloaded, damaged or disrupted because a disaster has occurred, or is likely to occur, amateur operators repeatedly have provided essential communications links and facilitated relief actions on a purely voluntary basis.¹⁷ Amateur operators in the Los Angeles area, however, continue to complain that their efforts to use the amateur bands in a cooperative and constructive manner are frequently disrupted by Gerritsen's unlicensed operation and deliberate interference to their communications.

6. On June 15, 2004, while on their way to serve a copy of the Section 301 NAL on Gerritsen, agents from the Commission's Los Angeles Office observed a signal on 146.405 MHz monopolizing the authorized 147.435/146.405 MHz repeater. Using mobile direction finding techniques, the agents located the source of the signal to Gerritsen's residence at 6217 ½ Palm Avenue in Bell, California. For almost an hour, Gerritsen maintained a steady transmission on the uplink frequency of 146.405 MHz which kept all other operators from using the repeater.

7. On June 24, 2004, the Los Angeles Office received a complaint from an amateur user which recounted a broadcast made that day, on 147.435 MHz, by a man identifying himself as Jack Gerritsen, announcing a "hostile takeover" of the frequency. On July 16, 2004, the Los Angeles Office received a complaint alleging that Gerritsen was interfering with fire watch communications on the authorized 147.105/146.505 MHz repeater. Los Angeles agents went to Gerritsen's residence and told him about the complaint. Gerritsen admitted operating on the 147.105/146.505 MHz repeater to the agents. The agents warned Gerritsen that he did not have authority to transmit on any amateur band and told him to vacate all amateur frequencies.

8. On July 24, 2004, using mobile direction finding techniques, an agent from the Los Angeles Office positively identified radio transmissions emanating from Gerritsen's residence at 6217 ½ Palm Avenue, Bell, California, as the source of radio signals being transmitted on the authorized 145.240/144.640 repeater. These communications consisted of a 20 minute prerecorded message by Gerritsen threatening to "jam" any operator that would "jam" him along with a recording of the tone used by the phone company to indicate a phone is off the hook. Throughout the recording, Gerritsen identified himself by the call sign "KG6IRO." During Gerritsen's transmissions, no other amateur operator was able to use the 145.240/144.640 repeater. On July 26, 2004, the Los Angeles Office received a complaint from another amateur operator stating that Gerritsen had played a recording for 48 minutes without interruption over the authorized "Keller Peak" repeater on 146.985/146.385 MHz.

9. On September 13, 2004, the Los Angeles Office received a complaint from an Amateur Relay Radio League ("ARRL") Official Observer, alleging that Gerritsen deliberately and maliciously interfered with the Young Hams Net using the authorized Catalina Island Amateur Repeater Association ("CARA") Repeater on 147.090/147.690 MHz on September 8, 2004.¹⁸ The complaint alleged that the prerecorded messages transmitted by Gerritsen were so intense and vile they were reported to have reduced one of the younger participants to tears.

10. On September 15, 2004, using mobile direction finding techniques, an agent from the Los Angeles Office positively identified radio transmissions emanating from Gerritsen's residence at 6217 ½ Palm Avenue, Bell, California, as the source of radio signals monopolizing the uplink frequency of 147.690 MHz for the CARA Repeater on 147.090/147.690 MHz. The agent heard Gerritsen transmit prerecorded

¹⁷1998 Biennial Regulatory Review – Amendment of Part 97 of the Commission's Amateur Service Rules, 13 FCC Rcd 15798, ¶ 7 (1998). See also 47 C.F.R. §97.101(b).

¹⁸The Young Hams Net is directed by a 15 year old high school student and comprised of young people between the ages of seven and twenty.

messages, and also sounds, static, and tones, as the members of the Young Hams Net attempted to communicate. During Gerritsen's transmissions, which lasted for almost ten minutes, no other amateur operator was able to use the repeater.

III. DISCUSSION

11. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.¹⁹ The term "repeated" means the commission or omission of such act more than once or for more than one day.²⁰

12. Section 333 of the Act states that no person shall willfully or maliciously interfere with, or cause interference to, any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government. The legislative history for Section 333 identifies willful and malicious interference as "intentional jamming, deliberate transmission on top of the transmissions of authorized users already using specific frequencies in order to obstruct their communications, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices to interfere with the communications or radio signals of other stations."²¹ Section 97.101(a) of the Commission's Rules ("Rules") states that "each amateur station must be operated in accordance with good engineering and good amateur practice."²² Section 97.101(d) of the Rules states that "[n]o amateur operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal."²³ One hallmark of willful and malicious interference in the amateur radio service is the refusal by an operator to allow any other operator to talk.²⁴ This can occur when an operator increases power so as to "capture" a repeater, to the exclusion of any other operators.²⁵ It can also occur when an operator transmits on an amateur frequency slightly different than another amateur frequency but at equal strength. This results in an audible tone, or whistle, with a frequency equal to the difference in the frequencies of the two competing signals. This tone is often referred to as "heterodyne" interference.²⁶

13. On June 15, 2004, Gerritsen operated radio transmitting equipment at 6217 ½ Palm Avenue, Bell, California, monopolizing, for almost one hour, the 147.435/146.405 MHz repeater. On July 24, 2004, Gerritsen operated radio transmitting equipment at 6217 ½ Palm Avenue, Bell, California, on the

¹⁹Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

²⁰Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

²¹H.R. Rep. No. 101-316, at 13 (1989).

²²47 C.F.R. § 97.101(a).

²³47 C.F.R. § 97.101(d).

²⁴*U.S. v. Richard*, (1998 WL 830654 (E.D. La.)). See also *John B. Genovese*, 10 FCC Rcd 7594 (CIB 1995).

²⁵The "capture effect" occurs when the repeater, or any FM receiver, responds to only the strongest signal received on a frequency and rejects any weaker competing signals. See *Unlicensed Operation in the TV Broadcast Bands*, 19 FCC Rcd 10018, 10036 (2004).

²⁶9 kHz Channel Spacing for AM Broadcasting, 88 FCC 2d 290, ¶ 69, (1981).

145.240/144.640 repeater. His communications consisted of a 20 minute prerecorded message threatening to “jam” any operator that would “jam” him. Because Gerritsen effectively captured the 145.240/144.640 repeater during that time, and because of his intentional jamming, no authorized amateur operator was able to use the repeater.

14. On September 15, 2004, Gerritsen operated radio transmitting equipment at 6217 ½ Palm Avenue, Bell, California, capturing the CARA Repeater and transmitting on top of the Young Hams Net that was attempting to use the repeater at that time. In addition, Gerritsen apparently caused heterodyne interference to occur, using the CARA repeater, and prohibited any communications to occur on the repeater at that time.

15. Gerritsen currently holds no Commission license or authorization to operate on any amateur frequency. However, Gerritsen continues to operate on amateur frequencies threatening authorized users with intentional interference. On several occasions, he realized these threats and intentionally jammed and transmitted on top of authorized users in the amateur service. Gerritsen’s threats against other operators and his abusive use of the amateur frequencies are the antithesis of good amateur practice and engineering. Gerritsen announced to authorized amateur users that he intended to interfere with their transmissions and then proceeded to cause such interference. Therefore, his violation is willful. The violation occurred on more than one day, therefore, it is repeated. Based on the evidence before us, we find that Gerritsen willfully and repeatedly violated Section 333 of the Act by willfully and maliciously interfering with the radio communications of authorized users of the Amateur Radio Service.

16. Pursuant to *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, (“*Forfeiture Policy Statement*”), and Section 1.80 of the Rules, the base forfeiture amount for causing interference to licensed stations is \$7,000.²⁷ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.²⁸ Based on the criteria in Section 503(b)(2)(D) of the Act, and the upward adjustment criteria in the *Forfeiture Policy Statement*, we find that an upward adjustment of the base forfeiture amount of \$7,000 is warranted.²⁹ Gerritsen’s apparent willful, repeated, and malicious interference with the radio communications of licensed amateur stations is egregious. According to the evidence, Gerritsen knowingly operates, without a license, radio transmission equipment while announcing his intentions to interfere with licensed amateur operators. He has willfully and maliciously interfered with the transmissions of licensed amateurs on a repeated basis, disregarding the Commission’s requirement that amateur stations be licensed and operated according to good amateur practice. Despite warnings and a prior NAL and Forfeiture Order, Gerritsen’s radio operations have been ongoing for several months. Considering the entire record and applying the factors listed above, we conclude a forfeiture in the amount of \$21,000 is appropriate.

IV. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Jack Gerritsen is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty-one thousand dollars (\$21,000) for violations of Section 333 of the Act.³⁰

²⁷12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

²⁸47 U.S.C. § 503(b)(2)(D).

²⁹47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(4); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100 – 01.

³⁰47 U.S.C. §§ 333, 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80.

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18. IT IS FURTHER ORDERED that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Jack Gerritsen SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

19. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

20. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd, Suite 660, Cerritos, CA, 90703 and must include the NAL/Acct. No. referenced in the caption.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

22. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.³¹

23. IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Jack Gerritsen, 6217 ½ Palm Avenue, Bell, CA, 90201.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton
District Director
Los Angeles Office
Western Region
Enforcement Bureau

³¹See 47 C.F.R. § 1.1914.